

July 21, 2003

Calpine Energy Services, L.P.
50 West San Fernando Street
San Jose, California 95113

The California Department of Water Resources with respect to its responsibilities pursuant to California Water Code Section 80000 *et seq.* regarding the Department of Water Resources Electric Power fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System (the "Department") and Calpine Energy Services, L.P. ("Calpine") entered into a Master Power Purchase and Sale Agreement (Version 2.1; modified 4/25/00) ("Master Agreement"), including an Amended and Restated Cover Sheet (the "Cover Sheet"), and an Amended and Restated Confirmation (Calpine 3) ("Calpine 3"), each entered into April 22, 2002 and effective May 1, 2002 (Calpine 3 and, to the extent applicable to Calpine, the Master Agreement and the Cover Sheet are referred to collectively as the "Calpine 3 Agreement").

The Calpine 3 Agreement has been or will be assigned and transferred by Calpine to Gilroy Energy Center, LLC, an indirect subsidiary of Calpine Corporation ("GEC"; Calpine and GEC being referred to as the "Calpine Parties") and the Calpine 3 Agreement was previously assigned and transferred by Calpine to another affiliate, which assignment was rescinded and is and was without legal effect.

In consideration of the mutual covenants, agreements and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Department and the Calpine Parties agree as follows:

(a) The Calpine 3 Agreement shall be amended, effective as of August 1, 2003, by deleting the entirety of the subsection entitled "Other Charges" in Calpine 3 (which appears under the heading "Contract Price") and replacing it with the following:

"Other Charges: The capacity payments payable in the amounts and at the times as follows (such payments to be prorated within a calendar month):

During the Period August 1, 2003 to July 31, 2006

A monthly capacity payment payable in arrears in an amount equal to \$7,500,000 in respect of each calendar month during such period, each such monthly capacity payment being payable on or prior to the later of (i) the first Business Day of the following calendar month, or (ii) 5 Business Days after Party B's receipt of an invoice therefor; provided, that for any adjustment in the Contract Quantity

hereunder pursuant to Special Condition (10) or (12), the amount of such monthly capacity payment shall be adjusted by an amount equal to \$15,151.52 for each megawatt of adjustment in the Contract Quantity in accordance with this Confirmation.

During the Period August 1, 2006 to July 31, 2011

A monthly capacity payment payable in arrears in an amount equal to \$6,666,666.67 in respect of each calendar month during such period, each such monthly capacity payment being payable on or prior to the later of (i) the first Business Day of the following calendar month, or (ii) 5 Business Days after Party B's receipt of an invoice therefor; provided, that for any adjustment in the Contract Quantity hereunder pursuant to Special Condition (10) or (12); the amount of such monthly capacity payment shall be adjusted by an amount equal to \$13,468.01 for each megawatt of adjustment in the Contract Quantity in accordance with this Confirmation; and provided, further, that the last monthly capacity payment in respect of the month of July 2011 shall be made on the later of (x) the last Business Day in July 2011, and (y) 5 Business Days after Party B's receipt of an invoice therefor."

- (b) The following provision shall be added to Section (t) of the Cover Sheet:

"(1) The foregoing provisions of Section (t) shall not apply to Calpine 3. Notwithstanding the foregoing provisions of Section (t), the following applies to Calpine 3: On any Business Day, but not more frequently than once per calendar quarter, Party B may deliver to Party A its written calculation of the Termination Payment, calculated in accordance with Section 5.3 hereof, payable by Party A as of such date in connection with Calpine 3 in the event Calpine 3 were terminated as of such date and Party A were the Defaulting Party (the amount of such Termination Payment that would be payable by Party A under such circumstances being referred to as the "Party B Termination Payment"), and promptly after the date on which Party B delivers its calculation of the Party B Termination Payment Amount, Party A shall provide Acceptable Security Assurance (as defined in Section (t)(2) below) in an amount equal to the greater of (i) the Party B Termination Payment Amount, and (ii) \$10,000,000. In the event Party B's calculation of the Party B Termination Payment Amount is disputed by Party A, Party A shall provide Acceptable Security Assurance in an amount equal to the greater of (x) of the undisputed portion thereof, and (y) \$10,000,000, and within 2 Business Days after the resolution of such dispute pursuant to the last sentence of this Section (t), shall provide Acceptable Security Assurance to Party B in an amount equal to the greater of (A) the amount determined pursuant to such dispute resolution procedure, and (B) \$10,000,000; provided, that if it is determined pursuant to such dispute resolution procedure that no Party B Termination Payment amount would be payable, then Party B shall return to Party A any previously provided Acceptable Security Assurance. Thereafter, on any Business Day, but not more frequently than once per calendar quarter, either Party

A or Party B may deliver to the other Party its written calculation of the Party B Termination Payment Amount, calculated as described in the first sentence of this Section (t)(1). If, as of any such date, the Party B Termination Payment Amount is greater than the amount of the Acceptable Security Assurance then in effect, Party A shall provide additional Acceptable Security Assurance (or a supplement to the then existing Acceptable Security Assurance) in an amount sufficient to ensure that the aggregate Acceptable Security Assurances provided to Party B and then in effect equal the most recently calculated Party B Termination Payment Amount. If, as of any such date, the Party B Termination Payment Amount is less than the amount of the Acceptable Security Assurance then in effect, Party A shall be entitled to reduce (but not below \$10,000,000 at any time that a positive Termination Payment would be payable to Party B, or zero at any time that no Termination Payment would be payable to Party B) the amount of then existing Acceptable Security Assurance (either by providing substitute Acceptable Security Assurance or by providing a supplement to the then existing Acceptable Security Assurance) such that the aggregate Acceptable Security Assurances provided to Party B and then in effect equal the most recently calculated Party B Termination Payment Amount. If the amount of any Acceptable Security Assurance is to be decreased pursuant to the immediately preceding sentence, then, upon Party A's request (and delivery of such substitute Acceptable Security Assurance or supplement to the then existing Acceptable Security Assurance, as applicable), Party B shall promptly return to Party A any previously delivered Acceptable Security Assurance or execute any such supplement to the then existing Acceptable Security Assurance, as applicable. If at any time either Party delivers a calculation of the Party B Termination Payment Amount pursuant to this Section (t)(1), such Party shall also deliver to the other Party such supporting data and information as the other Party may reasonably request to evaluate such calculation and, if the other Party reasonably disputes such calculation, such dispute shall be resolved in accordance with Section 5.3.

(2) As used in Section (t)(1), "Acceptable Security Assurance" shall mean any of the following, as determined by Party A: (i) a guarantee made in favor of Party B by an entity whose senior long term unsecured debt is rated at least BBB by Standard & Poor's and Baa2 by Moody's Investor's Services, (ii) a letter of credit issued for the benefit of Party B by a commercial bank having a credit rating of at least A by Standard & Poor's and A2 by Moody's Investor's Services, or (iii) a subordinated, second priority lien on and security interest in all of the property and assets of Party A, which shall at all times be subordinate in priority and effect to all senior liens (whether or not perfected) on any of Party A's properties and assets, including without limitation the liens and security interests from time to time of any party or parties (and such parties' agents) providing construction, term or letter of credit financing to Party A, and any renewal, modification, refinancing or extension of such financing (any such financing, the "Senior Financing"). Simultaneously with the grant of such second lien, Party B shall enter into an agreement with Party A for the benefit of the providers of the Senior Financing (which shall, if such providers have appointed a collateral agent, be

entered into for the benefit of such collateral agent) containing terms and conditions reasonably satisfactory to Party B. Notwithstanding the foregoing, Party A's right to provide Acceptable Security Assurance in the form described in clause (iii) of this Section (t)(2) shall be subject to the following conditions: (A) Party A shall have first diligently exercised commercially reasonable efforts to obtain Acceptable Security Assurance for the benefit of Party B in the form described in clauses (i) and (ii) of this Section (t)(2), (B) the rights and remedies of Party B under the Calpine 3 Agreement shall not be impaired, diminished or compromised by the grant to Party B of a second priority lien on Party A's properties and assets, and (C) Party B must be reasonably satisfied that (i) such second lien will provide Party B with security, the net proceeds from which would be in an amount or value of not less than the Party B Termination Payment Amount for Party A's obligations under the Calpine 3 Agreement, taking into account the terms and conditions of the grant and subordination of such second lien and the nature and value of the assets in which such second lien is granted and the nature and value of the secured obligations and (ii) Party B has sufficient rights to timely enforce such security. Any Acceptable Security Assurance provided pursuant to Section (t)(1) shall secure the full performance by Party A of its payment obligations under the Calpine 3 Agreement and shall be in a form reasonably acceptable to Party B, such acceptance not to be unreasonably withheld or delayed; provided, that it is agreed that, in the case of any guarantee provided under Section (t)(1) as Acceptable Security Assurance, a guarantee in substantially the same form as the Original Calpine Guaranty shall be deemed acceptable to Party B.

(3) During any period when any obligation of Party A to provide Acceptable Security Assurance to or for the benefit of Party B under Section (t)(1) above is satisfied by Party A providing or causing to be provided a guaranty described in Section (t)(2)(i) or a letter of credit described in Section (t)(2)(ii), then all references in the Calpine 3 Agreement to "Guarantor," "Calpine" or "Corporation" shall be deemed to refer exclusively to the guarantor under such guaranty or the issuer of such letter of credit, as applicable, and all references in the Calpine 3 Agreement to "guarantee" shall be deemed to refer exclusively to such guarantee or such letter of credit, as applicable. During any period when Party A does not have any obligation to provide or maintain any Acceptable Security Assurances pursuant to this Section (t) or on and after the date that any obligation to provide or maintain Acceptable Security Assurances is satisfied by the granting to Party A of a second lien on Party B's assets, all provisions in the Calpine 3 Agreement that contain references to "Guarantor," "Calpine", "Corporation" and/or "guarantee" shall be of no force or effect and shall be disregarded."

(c) The Guarantee Agreement entered into between Calpine Corporation and the Department dated as of May 1, 2002 (the "Original Calpine Guaranty") is terminated as of the date hereof and Calpine Corporation shall have no further liability thereunder.

(d) Clause (e) of Section 8.2 in the Cover Sheet and Section 8.2(e) of the Master Agreement, each as applied to Calpine 3, are hereby amended so that such provisions shall be deemed to refer to the requirement that Party A deliver Acceptable Security Assurance as described in Section (t)(1) of the Cover Sheet (as such Section (t) is amended by this letter amendment).

(e) In light of the foregoing: (i) all references to "CES" and "Party A" in the Calpine 3 Agreement shall refer to the current assignee instead of Calpine, so long as the assignment to such assignee was in compliance with Section 10.5 of the Calpine 3 Agreement, (ii) no such assignment is intended to constitute a novation of the Calpine 3 Agreement and nothing herein shall constitute an approval of any such assignment and transfer by the Department, and (iii) subject to the foregoing, for the avoidance of doubt, the Department may pursue any remedy at law or in equity it may have against Calpine and/or Calpine Corporation in respect of the Calpine 3 Agreement, provided that in no event shall the Department exercise any remedies against GEC as a consequence of any acts, omissions or events affecting Calpine or Calpine Corporation; provided, further, however, that nothing herein shall affect the Department's rights to exercise any remedy against GEC upon the occurrence of an Event of Default by GEC under the Calpine 3 Agreement such that GEC is the Defaulting Party.

All capitalized terms not otherwise defined in this letter amendment shall have the meanings set forth in the Calpine 3 Agreement. This letter amendment shall terminate upon the termination of the Calpine 3 Agreement.

Very truly yours,

DEPARTMENT OF WATER RESOURCES

with respect to the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System

By: 

Name: Peter S. Garbis

Title: Deputy Director

Acknowledged and Agreed:

CALPINE ENERGY SERVICES, L.P.

By: 

Name:

Title:

Date:

Ann B. Curtis

Executive Vice President